

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
PACIFIC FAR EAST LINE, INC.,)
SS SAMOA BEAR,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 104

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter is the appeal of a \$250.00 civil penalty for an alleged violation of respondent's Regulation I.

The matter came before all members of the Pollution Control Hearings Board at a formal hearing held in the Board's conference room in Olympia, Washington at 2:30 p.m., October 3, 1972.

Appellant appeared through its attorney, Charles E. Watts.
Respondent appeared through its counsel, Keith D. McGoffin. Irene Dahlgren, court reporter, recorded the proceedings.

Witnesses were sworn and testified. Exhibits were offered and admitted. A hearing-memorandum by appellant in support of certain motions was received, and is made a part of the record. All of the motions discussed therein were denied.

On the basis of the testimony received, exhibits examined, hearing-memorandum considered, and after having considered Exceptions filed, the Pollution Control Hearings Board makes these

FINDINGS OF FACT

I.

Early in the afternoon of February 24, 1972, at and near Pier 2, Tacoma, Pierce County, the steamship SAMOA BEAR emitted black smoke from its stack for a period of at least three minutes of an opacity equivalent at least to No. 3 on the Ringelmann Scale.

Respondent received no call either from the officers of the SAMOA BEAR or from representatives of the Pacific Far East Line that an emergency situation aboard the ship was causing a temporary smoke emission problem.

III.

Section 9.03(a)(1) of respondent's Regulation I makes it unlawful for any person to cause or allow the emission of any air contaminant for a period longer than three minutes in any one hour which is darker in shade than that designated as No. 2 on the Ringelmann Chart. Section 9.03(c)(2) of Regulation I of the Puget Sound Air Pollution Control Agency provides for an exception to Section 9.03(a)(1) of Regulation I if the owner or operator of equipment involved in an unavoidable failure or breakdown immediately notifies the Agency of such failure or breakdown.

FINDINGS OF FACT,

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IV.

Notice of Violation No. 5407 was served on appellant on February 25, 1972 and subsequent Notice of Civil Penalty No. 229 in the amount of \$250.00 was levied against appellant.

From these Findings the Pollution Control Hearings Board comes to these

CONCLUSIONS

I.

The steamship SAMOA BEAR was in violation of Section 9.03(a)(1) of respondent's Regulation I on February 24, 1972 at Tacoma, Pierce County.

II.

The \$250.00 civil penalty invoked in this matter appears to be extreme.

III.

Appellant's motions for dismissal should be overruled.

THEREFORE, the Pollution Control Hearings Board makes this

ORDER

The motions for dismissal are overruled and the Notice of Civil Penalty No. 229 is hereby remanded for a more appropriate amount.

DONE at Olympia, Washington this 2nd day of January, 1973.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward
WALT WOODWARD, Chairman

Matthew W. Hill
MATTHEW W. HILL, Member

James T. Sheehy
JAMES T. SHEEHY, Member

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